

- (b) respond substantively to the complaint; and
 - (c) be delivered to the complaints counsel as soon as practicable, and in any event by the date set by the complaints counsel.
- (8) The complaints counsel may deliver to the complainant a copy of the member's response or, where in the opinion of the complaints counsel that is not practicable or appropriate, a summary of it.
- (9) After the investigation or other action taken under subrules (3) to (8), the complaints counsel:
- (a) shall take no further action on the complaint if he or she is satisfied that:
 - (i) the complaint does not fall within the Society's jurisdiction;
 - (ii) the complaint is not valid;
 - (iii) the complaint is trivial, frivolous or of a vexatious nature; or
 - (iv) the complaint does not raise an issue of ethics, competence or discipline; or
 - (b) shall refer the complaint to the Chairperson of the Professional Standards Committee, the Conduct Investigation Committee or to the Ethics Committee in accordance with section 40(2) of the *Act*.
 - (c) may attempt to mediate a resolution to a complaint which raises an issue of ethics, competence or discipline with the approval of the Chair of the Ethics, Professional Standards or Conduct Investigation Committee.
- (10) The complaints counsel may act under subrule (9)(b) or (c), notwithstanding that the matter giving rise to the complaint has been resolved.
- (11) A member whose conduct is complained of shall be given an opportunity to respond to the complaint before the complaints counsel makes a determination pursuant to subrule (9) except, where in the opinion of the complaints counsel, there is a danger that the best interests of the public or the profession would be compromised by so doing;
- (12) Where another complaint or complaints are already referred to a Committee and it would be appropriate to have all matters reviewed concurrently by the same chairperson the complaints counsel may refer a matter prior to receiving the member's response.

[Rule 300(4) amended March 27, 1992; Rule 300(9)(b) amended February 4 & 5, 1993]

[Rule 300(11) added December 6, 1996]

[Rule 300(3), (5), (9)(a)(iv), (9)(b), (10) and (11) amended; (9)(c) and (12) added June 17, 2010]

Notification to the Parties

301. (1) The complaints counsel shall advise the member and the complainant, in writing, of his or her disposition under Rule 300(9).
- (2) If the complaints counsel decides to take no further action on the complaint, then complaints counsel shall, unless it was previously done under Rule 300(8):
- (a) deliver to the complainant a copy of the member's response if any or, where in the opinion of the complaints counsel that is not practicable or appropriate, a summary of it; and
 - (b) advise the complainant in writing of his or her right to apply for a review under section 43 of the *Act* and Rule 302.

[Rule 301(2) and (2)(a) amended June 17, 2010]

Complainants' Review Procedure

302. (1) A Complainants' Review Committee is established, consisting of one or more persons appointed by the President and may consist of any Bencher and/or outside designated complaints counsel.
- (2) A complainant who is dissatisfied with a decision of:
- (a) the complaints counsel that no further action will be taken on the complaint;
 - (b) the Chairperson of the Professional Standards Committee under section 41(1.1)(a) of the *Act* that no further action will be taken on the complaint because he or she is of the opinion that the matter does not raise an issue of competence; or

- (c) the Conduct Investigation Committee under section 42(2)(a) of the *Act* that no further action will be taken on the complaint because the member's conduct does not constitute conduct unbecoming
- may apply in writing for a review of that decision.
- (3) (a) an application under subrule (2) shall be delivered to the complaints counsel within 30 days after the complainant was notified of the decision under review;
- (b) in exceptional circumstances the 30 day time may be extended by the Complainants' Review Committee.
- (4) The complaints counsel shall direct the application to one or more members of the Complainants' Review Committee and that member or members:
- (a) shall review the documents obtained, collected or produced by the complaints counsel under Rule 300;
- (b) may make such inquiries of the complainant, the member or any other person as it considers desirable; and
- (c) may, in its discretion, hear oral submissions from the complainant and/or the member whose conduct is the subject of the complaint.
- (5) The member or members of the Complainants' Review Committee referred to in (4) above shall:
- (a) confirm the decision of the complaints counsel or the Chairperson of the Conduct Investigation Committee or the Chairperson of the Professional Standards Committee to take no further action; or
- (b) refer the complaint to:
- (i) the Chairperson of the Professional Standards Committee; or
- (ii) the Conduct Investigation Committee, to proceed with the complaint in accordance with section 42(2)(b) or (3) of the *Act*; or
- (iii) the Chairperson of the Ethics Committee.
- (6) The Society shall promptly advise the complainant and the member, in writing, of the decision made under subrule (5).

[Rule 302(4), (5) & (6) amended October 23, 1992]

[Rule 302(5)(b)(i) amended February 4 & 5, 1993]

[Rule 302(2)(a) & 302(6) amended June 6 & 7, 1996; Rule 302(b) added June 6 & 7, 1996]

[Rule 302(5)(a) amended April 23, 1998]

[Rule 302(3), (4) and (5) amended June 11, 1998]

[Rule 302(3) amended September, 2006]

[Rule 302(1), (2)(a) and (c), (3)(a), (4), (5)(a) and (5)(b)(ii) amended; (3)(b) added June 17, 2010]

[Rule 302(2)(a) amended February 10, 2012]

Ethics Committee

303. (1) The Ethics Committee shall review any referral or request made by:
- (a) complaints counsel;
- (b) other Committees;
- (c) request for ruling made pursuant to (2).
- (2) Any person may request a ruling from the Ethics Committee for a ruling on an ethical issue.
- (3) Upon receipt by the Ethics Committee of a referral or request, the Committee may:
- (a) make whatever recommendations it sees fit to resolve the conflict of interest or potential conflict of interest;
- (b) decline to make a ruling;
- (c) give opinions and make professional conduct rulings on questions of professional ethics, for the guidance of the profession;
- (d) make recommendations to the Benchers and to the Discipline Committee respecting professional ethics and the development of and revisions to *The Code of Professional Conduct*; and
- (e) refer matters to the Conduct Investigation Committee or Professional Standards Committee.
- (4) The Ethics Committee shall administer the Society's Rules respecting the marketing of legal services.